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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,700	08/26/2003	Yvan Fortin	9680.234US01	4051
23552	7590	07/05/2006	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			BUMGARNER, MELBA N	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/648,700	Applicant(s) FORTIN, YVAN	
	Examiner Melba Bumgarner	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 8-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Nardi (5,221,206). Nardi discloses a teeth prosthesis comprising two or more implants (column 2 line 43), each implants having opposite ends, an opposite end defines a head 1 (column 2 line 48), a customized connecting bar 2 fastened to the implants, a pair of mating bars having a predetermined size and shape comprising a meso-bar 7 fastened to the connecting bar and an iso-bar 6 removably attached to the meso-bar with attaching means (column 3 line 23), the iso-bar and the meso-bar being complementary to each other (column 2 line 10). The terms fore part and rear ends are relative in that Nardi has bars with fore part and opposite rear ends as claimed with no structural distinction. As to claim 2, patentable weight is not given to the process by which the bars are selected, because a product claim is properly met if the final product is shown regardless of the process used, i.e. the process of selecting the predetermined size and shape from a plurality of predetermined sizes and shapes. As to claim 3, the connecting bar has a flat top part. As to claim 4, the meso-bar has a flat bottom part.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3732

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nardi in view of Branemark (4,767,328). Nardi discloses a teeth prosthesis comprising two or more implants (column 2 line 43), each implants having opposite ends, an opposite end defines a head 1 (column 2 line 48), a customized connecting bar 2 fastened to the implants, a pair of mating bars having a predetermined size and shape comprising a meso-bar 7 fastened to the connecting bar and an iso-bar 6 removably attached to the meso-bar with attaching means (column 3 line 23), the iso-bar and the meso-bar being complementary to each other (column 2 line 10). The terms fore part and rear ends are relative in that Nardi has bars that can be called with fore part and opposite rear ends; however, Branemark is used to show the bars that appear as intended to be claimed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the bars as in Branemark in order to be able to have the dental prosthesis follow the alveolar bone in view of Branemark. As to claim 2, it would have been obvious to one of ordinary skill in the art as to the process by which the bars are selected. As to claim 3, the connecting bar has a flat top part. As to claim 4, the meso-bar has a flat bottom part.

5. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nardi or Nardi in view of Branemark. Nardi discloses a prosthesis that shows the limitations as described above; however, Nardi does not show the meso-bar fastened to the connecting bar with at least four fasteners. It would have been an obvious matter of choice to one of ordinary skill in the art at the time the invention was made as to the specific number of fasteners used to connect the connecting bar and the meso-bar. The number of fasteners is not critical to the claimed

Art Unit: 3732

invention. As to claims 6 and 7, Nardi does not show the connecting bar made of gold or palladium and the mating bars of titanium. It would have been an obvious matter of choice to one of ordinary skill in the art as to the specific material of the prosthesis. The specific material is not disclosed as critical to the claimed invention as the specification state that these are the preferred materials.

Election/Restrictions

6. Newly submitted claims 8-11 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the originally presented invention is for a teeth prosthesis on which a set of teeth mounts having implants, customized connecting bar and a pair of mating bars, the new claims pertains to a kit comprising a pair of mating bars. Furthermore, the specification does not disclose a kit comprised of mating bars.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 8-11 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Response to Arguments

7. Applicant's arguments filed April 10, 2006 have been fully considered but they are not persuasive. The prior art shows the claimed components of the teeth prosthesis. Figure 1 of Nardi shows a meso-bar is fastened to the connecting bar and an iso-bar is removably attached to the meso-bar with attaching means. Applicant is arguing the process by which the article of the prior art is further used. It is noted that the applicant has not disclosed accepted standard sizes and shapes of the bars.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3732

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in cursive script that reads "Melba Bumgarner".

Melba Bumgarner
Primary Examiner